



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,637	09/22/2003	Jonathan T. Miller	112.0010001	2176

7590 01/16/2007
E. J. Brooks & Associates, PLLC
Suite 500
1221 Nicollet Avenue
Minneapolis, MN 55403

EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
----------	--------------

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/668,637	Applicant(s) MILLER, JONATHAN T.	
	Examiner Chi Q Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35, 37-43, 45, 46 and 48-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 39-43, 46, 48-50, 60 and 61 is/are allowed.
- 6) ☒ Claim(s) 35, 37, 38, 45, 53-57 and 62 is/are rejected.
- 7) ☒ Claim(s) 51, 52, 58 and 59 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> |

Art Unit: 3635

DETAILED ACTION

This Office action is in response to the applicant's amendment after final filed on 12/15/2006. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Status of Claims

Claims 1-34, 36, 44, and 47 have been cancelled.

Claims 35, 37-43, 45-46, and 48-62 are pending and have been examined.

Upon further consideration, the previously stated allowable subject matters are withdrawn and with a new art and new ground of rejections are presented as followed:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35, 37-38, 45, 53-55, 57, and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 4,608,785 to Rhodes et al.

Claims 35 and 53:

Rhodes discloses a multiple unit residential building 10 (col. 1, line 51) comprising a concrete foundation (Fig. 1), a number of residential units constructed on the concrete foundation, the number of units bordering at least a portion of an atrium 16 having at least a public portion B (see attached Fig. 1) formed on the concrete foundation, each unit including a semi-public area A adjacent to an entrance into the

Art Unit: 3635

unit and adjacent to the atrium, a common area 28 for ingress and egress from outside the building connected the atrium and a number of level including a basement located below the atrium, and a number of levels 20 and wherein the concrete foundation is on a first level and the atrium extends upward through a number of levels.

Claims 37 and 54:

Wherein the building has a number of levels and wherein the concrete foundation is on a first level and the atrium extends upward through a number of levels and the basement located below the atrium.

Claim 38:

Wherein the common area has an elevator 32 therein.

Claims 45 and 62:

Wherein the basement 58 includes a number of parking spaces for parking automobiles (see Fig. 1).

Claim 55:

Wherein each unit inherently has a foyer adjacent to the front entrance.

Claim 57:

Wherein each of the semi-public areas is arranged such that access from the public area to each of the units as accomplished by passing through one of the semi-public areas and through the front entrance of the unit,

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3635

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat.

No. 4,608,785 to Rhodes et al.

Rhodes discloses the basic structural elements for building as stated but does not specifically teach wherein each unit includes a semi-public unit area proximate to the unit and wherein the atrium includes a public area positioned between each unit and each semi-public area. However, this feature would have been a matter of obvious arrangement to one of ordinary skill in the art at the time the invention was made. Furthermore, applicant has not disclosed the criticality of this feature.

Allowable Subject Matter

Claims 39-43, 46, 48-50, and 60-61 are allowed.

Claims 51-52, and 58-59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 35, 37-38, 45, 53-57, and 62 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3635


Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached at (571) 272-6848.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at (866) 217-9197.

cn
1/10/2007
CQN


NAOKO SLACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

